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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,797	10/08/2003	Darrell D. Campbell	8650-PA01	6630
27111	7590	10/27/2006	EXAMINER	
GORDON & REES LLP 101 WEST BROADWAY SUITE 1600 SAN DIEGO, CA 92101				COLLINS, DOLORES R
ART UNIT		PAPER NUMBER		
				3711

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/681,797	CAMPBELL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Dolores R. Collins	3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 August 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 15-21 is/are rejected.
- 7) Claim(s) 22-25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>9/6/06</u> .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Response to Amendment***

Claims 1-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the replies filed on 1/25/06 and 8/11/06.

Examiner further acknowledges the addition of claims 20-25.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 15-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Webb et al. (759).

Webb et al. Discloses a Player Banked Three Card Poker And Associated Games.

Regarding Claim 15

Webb teaches a card game with a modified deck (col.9 , lines 50-53) which is used by players to play a competitive game that is resolved according to the rules of said game with predetermined winnings (see abstract and claim 1).

Regarding Claims 16-17

Webb teaches resolution based on rank with player being ranked based on individual hands received (see abstract).

Regarding Claim 18

Webb teaches players choosing to bet or fold and resolution based on highest rank (see col. 5, lines 46-48, col. 11, lines 19-21 & abstract). Webb further teaches cards being dealt face down (see col. 10, lines 63-64).

Regarding Claim 19

Webb teaches that his game is adaptable to electronic or computer play (see col.9, lines 15-18).

Regarding Claim 20

Webb teaches the discarding and replacement of cards (see col.6, lines 57-61).

Regarding Claim 21

Webb teaches a five-card poker option (see col. 2, lines 49-55)

2. Claim 15, 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Rodda et al. (305).

Rodda discloses a Blackjack Type Wagering Game Method.

Regarding Claim 15

Webb teaches a card game with a modified deck (biased) which is used by players to play a competitive game that is resolved according to the rules of said game (see abstract and claim 1).

Regarding Claim 18

Rodda teaches players choosing to bet or fold and resolution based on highest rank (see figure 2). Rodda further teaches cards being dealt face down (see col. 4, lines 36-39).

Regarding Claim 19

Rodda teaches that his game is adaptable to electronic or computer play (video display) – see abstract.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodda et al. (305) as applied to claim 1 above, and further in view of Applicants admission.

Regarding claims 16-17

The assignment of different hand ranking and winning hands being determined by the highest ranking, by applicant's own admission in paragraph [0012], are well known in the art. It would have been an obvious matter of design choice to include this feature to add variety to game play.

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodda et al. (305).

Regarding Claim 21

Rodda fails to teach that his game is a poker game he teaches a Blackjack Type game. It would have been an obvious matter of design choice to modify Rodda to implement any desired game based on its predetermined rules of game play. Such would present little or no difficulty to one skilled in the art.

***Allowable Subject Matter***

Claims 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dolores R. Collins whose telephone number is (571) 272-4421. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call **800-786-9199** (IN USA OR CANADA) or **571-272-1000**.



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10/20/06



EUGENE KIM  
SUPERVISORY PATENT EXAMINER